

**UNITED STATES OF AMERICA**  
**Before the**  
**OFFICE OF THRIFT SUPERVISION**

In the Matter of	)	
	)	Order No.: CN 09-36
	)	
<b>LIBERTY SAVINGS BANK, FSB</b>	)	Effective Date: October 19, 2009
	)	
Wilmington, Ohio	)	
OTS Docket No. 08039	)	
	)	

**ORDER TO CEASE AND DESIST**

**WHEREAS**, Liberty Savings Bank, FSB, Wilmington, Ohio, OTS Docket No. 08039 (Association), by and through its Board of Directors (Board) has executed a Stipulation and Consent to the Issuance of an Order to Cease and Desist (Stipulation); and

**WHEREAS**, the Association, by executing the Stipulation, has consented and agreed to the issuance of this Order to Cease and Desist (Order) by the Office of Thrift Supervision (OTS) pursuant to 12 U.S.C. § 1818(b); and

**WHEREAS**, pursuant to delegated authority, the OTS Regional Director for the Central Region (Regional Director), is authorized to issue Orders to Cease and Desist where a savings association has consented to the issuance of an order.

**NOW, THEREFORE, IT IS ORDERED that:**

**Cease and Desist.**

1. The Association and its directors, officers, and employees shall cease and desist from any action (alone or with others) for or toward causing, bringing about, participating in or

counseling, or the aiding and abetting of the unsafe or unsound practices that resulted in the Association operating with an inadequate level of capital protection for the volume, type and quality of assets held by the Association and with an excessive level of classified loans as described in the OTS Report of Examination of the Association dated March 30, 2009 (ROE).

**Capital.**

2. (a) By March 31, 2010, the Association shall meet and maintain: (i) a Tier 1 (Core) Capital Ratio of at least eight percent (8%) and (ii) a Total Risk-Based Capital Ratio of at least twelve percent (12%) after the funding of an adequate Allowance for Loan and Lease Losses (ALLL).
- (b) The requirement in Subparagraph (a) above to meet and maintain a specific capital level means that the Association may not be deemed to be “well-capitalized” for purposes of 12 U.S.C. §1831o and 12 C.F.R. Part 565, pursuant to 12 C.F.R. §565.4(b)(1)(iv).
3. (a) By November 30, 2009, the Board shall adopt and submit to the Regional Director for review and comment a written plan to meet and maintain the Association’s capital at the levels prescribed in Paragraph 2 (Capital Plan). The Capital Plan shall cover the period beginning with September 30, 2009 through December 31, 2011 and, at a minimum, shall:
  - (i) address the requirements and restrictions imposed by this Order;
  - (ii) detail the Association’s capital preservation and enhancement strategies with specific narrative goals;

- (iii) address the amount of additional capital that will be necessary to meet the capital requirements of Paragraph 2 under different forward-looking scenarios involving progressively stressed economic environments;
  - (iv) identify the specific sources of additional capital;
  - (v) detail timeframes by which the additional capital will be raised and provide specific target month-end capital levels; and
  - (vi) provide for alternative methods to strengthen capital, should the primary sources identified under Paragraph 3(a)(iv) not be available.
- (b) Within thirty (30) days after receipt of any written comments from the Regional Director, the Board shall revise and adopt the Capital Plan based on such comments. The Board shall ensure that the Association implements and adheres to the Capital Plan. A copy of the Capital Plan shall be provided to the Regional Director within five (5) days after the Board meeting.
- (c) Once the Capital Plan is implemented, the Association shall operate within the parameters of its Capital Plan. Any proposed material deviations from or changes to the Capital Plan must be submitted for the prior, written non-objection of the Regional Director. Requests for any material deviations or changes must be submitted at least sixty (60) days before a proposed change is implemented.
- (d) The Association shall notify the Regional Director regarding any material event affecting or that may affect the capital or capital projections of the Association within five (5) days after such event.
- 4. (a) The Board shall review on a monthly basis, by the last day of each month, a written report that compares projected operating results contained within the Capital Plan

to actual results for the previous month (Capital Plan Variance Report). The Board shall discuss and approve corrective actions, if needed, to ensure the Association's adherence to its Capital Plan. The Board's review of the Capital Plan Variance Report and assessment of the Association's compliance with the Capital Plan shall be fully documented in the appropriate Board meeting minutes beginning with the Board's February 2010 meeting.

(b) On a monthly basis, the Board shall provide to the Regional Director by the last day of each month, beginning with February 28, 2010, a copy of the Capital Plan Variance Report.

5. Within fifteen (15) days after (i) the Association fails to meet the capital requirements prescribed in Paragraph 2, (ii) the Association fails to comply with the Capital Plan prescribed in Paragraph 3, or (iii) any written request from the Regional Director, the Board shall prepare and submit a written Contingency Plan that is acceptable to the Regional Director. The Contingency Plan shall detail the actions to be taken, with specific time frames, to achieve one of the following results by the later of the date of receipt of all required regulatory approvals or sixty (60) days after the implementation of the Contingency Plan: (a) merger with, or acquisition by another federally insured depository institution or holding company thereof; or (b) voluntary liquidation by filing an appropriate application with OTS in conformity with federal laws and regulations.

6. Upon receipt of written notification from the Regional Director, the Association shall implement the Contingency Plan immediately. The Board shall provide the Regional Director with written status reports detailing the Association's progress in implementing the Contingency

Plan by no later than the 1st and 15th of each calendar month following implementation of the Contingency Plan (Contingency Status Reports).

**Asset Quality.**

7. (a) Effective immediately, the Association shall not originate or participate in any new loan or line of credit secured by commercial real estate until the Association reduces its concentration in commercial real estate (CRE) loans, including total: (A) permanent commercial property mortgage loans (both owner-occupied and non-owner-occupied); (B) rental property loans; and (C) land acquisition, development and construction (ADC) loans, to an aggregate amount not to exceed three hundred percent (300%) of core capital plus the Allowance for Loan and Lease Losses (ALLL) and has maintained such CRE concentration for two consecutive quarters. Before resuming CRE lending, the Board shall submit a written request to the Regional Director containing the Association's proposed concentration limits for credit secured by CRE and receive a written non-objection letter from the Regional Director.
- (b) For purposes of complying with the provisions of this Paragraph, the Association may: (i) enter into extensions, refinancings, assumptions or modifications of existing commercial real estate loans or lines that do not involve the granting of new funds; and (ii) make disbursements pursuant to legally binding commitments made prior to the Effective Date of this Order, provided that: (A) for any extension, refinancing, assumption, or modification of an existing loan or line, the Association shall maintain documentation sufficient to demonstrate that such a transaction was in the best interest of the Association (i.e., obtaining additional collateral, etc.); and (B) the Association shall maintain a detailed report of all commercial real estate loans and lines extended,

refinanced, assumed, or modified pursuant to this Subparagraph, an updated copy of which shall be provided to the Regional Director on a quarterly basis, beginning with the quarter ending September 30, 2009.

**Problem Assets Plan.**

8. (a) Within forty-five (45) days, the Board shall adopt and submit for Regional Director review and comment a written plan (Problem Assets Plan) to reduce the Association's adversely classified loans and loans designated as Special Mention (collectively, Criticized Assets). For purposes of this Paragraph, "reduce" means to collect, sell, charge off, or improve the quality of an asset sufficient to warrant its removal from adverse criticism or classification. At a minimum, the Problem Assets Plan shall include the following:
  - (i) aggregate reporting of Criticized Assets by loan type to the Board every month;
  - (ii) specific plans for the reduction of Criticized Assets by asset type with target reductions by quarter;
  - (iii) quarterly reviews by the Board of the projected Criticized Asset reduction targets to actual results, including a discussion of any material deviations between the reduction targets and actual results (Variance Analysis Report); and
  - (iv) procedures for a quarterly review by the Board of the effectiveness of the Problem Assets Plan to eliminate the weaknesses in each Criticized Asset, including Real Estate Owned (REO), totaling three hundred thousand dollars (\$ 300,000) or more.

- (b) Within thirty (30) days after receiving any written comments from the Regional Director, the Board shall revise and adopt the Problem Assets Plan based on such comments. The Board shall ensure that the Association implements and adheres to the Problem Assets Plan. A copy of the Problem Assets Plan shall be provided to the Regional Director within five (5) days after the Board meeting.
  - (c) On a quarterly basis, beginning with the first quarter ending December 31, 2009, the Board shall review a written report comparing projected Criticized Assets reduction results contained within the Problem Assets Plan to actual results (Variance Analysis Report).
  - (d) The Board shall review the Variance Analysis Report each quarter and conduct a thorough and diligent review and assessment of the Association's implementation of and compliance with the Problem Assets Plan. The Board's review of the Variance Analysis Report and assessment of the Association's compliance with the Problem Assets Plan shall be fully documented in the appropriate Board meeting minutes. Within forty-five (45) days of the close of each quarter, beginning with the quarter ending December 31, 2009, the Board shall provide the Regional Director with a copy of each Variance Analysis Report required by this Paragraph.
9. (a) Within thirty (30) days, the Board shall adopt revisions to the Association's ALLL and Specific Valuation Allowance (SVA) methodologies and policies taking into account Section 261 of the OTS Examination Handbook and the comments contained in the ROE.
- (b) Effective immediately, the Board shall review the adequacy of the Association's ALLL and SVA on a quarterly basis, including a review of the then current market

conditions and the reasonableness of the Association's inputs and assumptions in relation to current economic data and trends. The Board's review, including the factors considered and the conclusions reached in determining the adequacy of the ALLL and SVA, shall be fully documented in the appropriate Board meeting minutes.

**Violations of Law.**

10. Within thirty (30) days, the Board shall ensure that each violation of regulation cited on the Violations of Laws and Regulations page of the ROE is corrected and that the Association adheres to specific procedures to prevent future violations.

**Business Plan.**

11. (a) By October 31, 2009, the Board shall adopt and submit to the Regional Director for review and comment a revised comprehensive business plan for the period beginning with the quarter ending September 30, 2009 through the quarter ending December 31, 2011 (Business Plan). At a minimum, the Business Plan shall include the requirements contained within this Order and shall:

- (i) set forth well supported and realistic strategies to improve earnings and the net interest margin no later than March 31, 2010;
- (ii) provide for the capital levels required by Paragraph 2 of this Order;
- (iii) detail strategies to stress-test and adjust earnings forecasts based on continuing operating results, economic conditions and credit quality of the loan portfolio; and
- (iv) provide quarterly detailed pro forma balance sheets and income statements for a rolling three-year period beginning with the quarter ending September 30, 2009 through the quarter ending December 31, 2011.



- (b) The Business Plan shall include all assumptions used in the pro formas, such as:
  - (i) the assumed interest rate scenarios;
  - (ii) assumptions used for noninterest income and noninterest expense;
  - (iii) assumptions for any assets or liabilities sold;
  - (iv) assumptions used to determine the ALLL;
  - (v) assumptions for loan origination rates using recent experience and taking into consideration current national and regional economic conditions; and
  - (vi) assumptions supporting the cost of funds projections.
- (c) Within thirty (30) days after receiving any written comments from the Regional Director, the Board shall revise and adopt the Business Plan based on such comments.

The Board shall ensure that the Association implements and adheres to the Business Plan.

A copy of the Business Plan shall be provided to the Regional Director within five (5) days after the Board meeting.
- (d) Once the Business Plan is implemented, the Association shall operate within the parameters of its Business Plan. Any proposed material deviations from or changes to the Business Plan must be submitted for the prior, written non-objection of the Regional Director. Requests for any material deviations or changes must be submitted at least sixty (60) days before a proposed change is implemented.
- (e) The Association shall notify the Regional Director regarding any material event affecting or that may affect the balance sheet, capital, or the cash flow of the Association within five (5) days after such event.

12. (a) On a quarterly basis, beginning with the quarter ending December 31, 2009, the Association shall prepare and submit to the Board a written report that compares

projected operating results contained within the Business Plan to actual results (Business Plan Variance Report). The Board shall review each Business Plan Variance Report and address external and internal risks that may affect the Association's ability to successfully implement the Business Plan. This review shall include, but not be limited to, adverse scenarios relating to asset or liability mixes, interest rates, staffing levels and expertise, operating expenses, marketing costs, and economic conditions in the markets in which the Association is operating. The Board's review of the Business Plan Variance Report and assessment of the Association's compliance with the Business Plan shall be fully documented in the appropriate Board meeting minutes.

(b) Within sixty (60) days after the close of each quarter, beginning with the quarter ending December 31, 2009, the Board shall provide the Regional Director with a copy of each Business Plan Variance Report.

**Growth.**

13. Effective immediately, the Association is subject to and shall comply with the requirements and provisions of OTS Regulatory Bulletin 3b. Without the prior written approval of the Regional Director, the Association shall not increase its total assets during any quarter beginning with the quarter ending December 31, 2009 in excess of an amount equal to net interest credited on deposit liabilities during the quarter. The growth restrictions imposed by this Paragraph shall remain in effect until the Regional Director reviews and approves the Association's Business Plan as required under Paragraph 11 of this Order. Any growth in assets, including any growth proposed in the Business Plan, should consider:

- (a) the source, volatility and use of the funds that support asset growth;
- (b) any increase in credit risk or interest rate risk as a result of growth; and

- (c) the effect of such growth on the Association's capital.

**Brokered Deposits and Interest Rate Restriction.**

14. Effective immediately, the Association shall comply with the requirements of 12 C.F.R. § 337.6(b) and shall not: (i) accept, renew or roll over any brokered deposit, as that term is defined at 12 C.F.R. § 337.6(a)(2); or (ii) act as a deposit broker, as that term is defined at 12 C.F.R. § 337.6(a)(5).

**Dividends.**

15. Effective immediately, the Board shall not declare or pay dividends or make any other capital distributions, as that term is defined in 12 C.F.R. § 563.141, without receiving the prior written approval of the Regional Director. The Association's written request for written approval should be submitted to the Regional Director at least sixty (60) days prior to the anticipated date of the proposed dividend or distribution of capital.

**Severance and Indemnification Payments.**

16. Effective immediately, the Association shall not make any golden parachute payment<sup>1</sup> or any prohibited indemnification payment<sup>2</sup> unless, with respect to each such payment, the Association has complied with the requirements of 12 C.F.R. Part 359 and, as to indemnification payments, 12 C.F.R. § 545.121.

**Directorate and Management Changes.**

17. Effective immediately, the Association shall comply with the prior notification requirements for changes in directors and Senior Executive Officers<sup>3</sup> set forth in 12 C.F.R. Part 563, Subpart H.

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<sup>1</sup> The term "golden parachute payment" is defined at 12 CFR § 359.1(f).

<sup>2</sup> The term "prohibited indemnification payment" is defined at 12 CFR § 359.1(l).

<sup>3</sup> The term "Senior Executive Officer" is defined at 12 C.F.R. § 563.555.

### **Employment Contracts and Compensation Arrangements.**

18. (a) Effective immediately, the Association shall not enter into, renew, extend, or revise any contractual arrangement relating to compensation or benefits for any Senior Executive Officer or director of the Association, unless it first provides the Regional Director with not less than thirty (30) days prior written notice of the proposed transaction. The notice to the Regional Director shall include a copy of the proposed employment contract or compensation arrangement or a detailed, written description of the compensation arrangement to be offered to such officer or director, including all benefits and perquisites. The Board shall ensure that any contract, agreement, or arrangement submitted to the Regional Director fully complies with the requirements of 12 C.F.R. Part 359, 12 C.F.R. §§ 563.39 and 563.161(b), and 12 C.F.R. Part 570 – Appendix A.
- (b) Effective immediately, the Association shall not increase any salaries, bonuses, or director's fees or make any other similar payments, directly or indirectly, to the Association's directors or Senior Executive Officers without prior written non-objection from the Regional Director.

### **Third Party Contracts.**

19. Effective immediately, the Association shall not enter into any arrangement or contract with a third party service provider that is significant to the overall operation or financial condition of the Association<sup>4</sup> or outside the Association's normal course of business unless, with respect to each such contract, the Association has: (a) provided the Regional Director with a minimum of thirty (30) days prior written notice of such arrangement or contract; (b) determined

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<sup>4</sup> A contract will be considered significant to the overall operation or financial condition of the Association where the annual contract amount equals or exceeds two percent (2%) of the Association's total capital.

that the arrangement or contract complies with the standards and guidelines set forth in OTS Thrift Bulletin 82a; and (c) received written notice of non-objection from the Regional Director.

**Transactions with Affiliates.**

20. Effective immediately, the Association shall not engage in any transaction with an affiliate unless, with respect to each such transaction, the Association has complied with the notice requirements set forth in 12 C.F.R. § 563.41(c)(4), which shall include the information set forth in 12 C.F.R. § 563.41(c)(3). All transactions with an affiliate for which a notice is submitted pursuant to this Paragraph of the Order shall comply with the requirements of 12 C.F.R. § 563.41 and 12 C.F.R. Part 223.

**Effective Date, Incorporation of Stipulation.**

21. This Order is effective on the Effective Date as shown on the first page. The Stipulation is made a part hereof and is incorporated herein by this reference.

**Duration**

22. This Order shall remain in effect until terminated, modified or suspended, by written notice of such action by the OTS, acting by and through its authorized representatives.

**Time Calculations.**

23. Calculation of time limitations for compliance with the terms of this Order run from the Effective Date and shall be based on calendar days, unless otherwise noted.

24. The Regional Director may extend any of the deadlines set forth in the provisions of this Order upon written request by the Association that includes reasons in support for any such extension. Any OTS extension shall be made in writing.

**Submissions and Notices.**

25. All submissions, including progress reports, to the OTS that are required by or contemplated by this Order shall be submitted within the specified timeframes.

26. Except as otherwise provided herein, all submissions, requests, communications, consents or other documents relating to this Order shall be in writing and sent by first class U.S. mail (or by reputable overnight carrier, electronic facsimile transmission or hand delivery by messenger) addressed as follows:

(a) **To the OTS:**

Regional Director  
Office of Thrift Supervision  
One South Wacker Drive, Suite 2000  
Chicago, Illinois 60606  
Facsimile: (312) 917-5001

(b) **To the Association:**

Chairman of the Board  
Liberty Savings Bank, FSB  
2251 Rombach Avenue  
Wilmington, Ohio 45177  
Facsimile: (937) 382-7174

**No Violations Authorized.**

27. Nothing in this Order or the Stipulation shall be construed as allowing the Association, its Board, officers or employees to violate any law, rule, or regulation.

**IT IS SO ORDERED.**

**OFFICE OF THRIFT SUPERVISION**

By: \_\_\_\_\_/s/  
Daniel T. McKee  
Regional Director, Central Region

Date: See Effective Date on page 1

**UNITED STATES OF AMERICA**  
**Before the**  
**OFFICE OF THRIFT SUPERVISION**

In the Matter of	)	Order No.: CN 09-36
	)	
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<b>LIBERTY SAVINGS BANK, FSB</b>	)	Effective Date: October 19, 2009
	)	
Wilmington, Ohio	)	
OTS Docket No. 08039	)	
	)	

**STIPULATION AND CONSENT TO ISSUANCE OF ORDER TO CEASE AND DESIST**

**WHEREAS**, the Office of Thrift Supervision (OTS), acting by and through its Regional Director for the Central Region (Regional Director), and based upon information derived from the exercise of its regulatory and supervisory responsibilities, has informed Liberty Savings Bank, FSB, Wilmington, Ohio, OTS Docket No. 08039 (Association) that the OTS is of the opinion that grounds exist to initiate an administrative proceeding against the Association pursuant to 12 U.S.C. § 1818(b);

**WHEREAS**, the Regional Director, pursuant to delegated authority, is authorized to issue Orders to Cease and Desist where a savings association has consented to the issuance of an order; and

**WHEREAS**, the Association desires to cooperate with the OTS to avoid the time and expense of such administrative cease and desist proceeding by entering into this Stipulation and Consent to the Issuance of Order to Cease and Desist (Stipulation) and, without admitting or denying that such grounds exist, but only admitting the statements and conclusions in Paragraphs

1 and 2 below concerning Jurisdiction, hereby stipulates and agrees to the following terms:

### **Jurisdiction.**

1. The Association is a “savings association” within the meaning of 12 U.S.C. § 1813(b) and 12 U.S.C. § 1462(4). Accordingly, the Association is an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c).
2. Pursuant to 12 U.S.C. § 1813(q), the Director of the OTS is the “appropriate Federal banking agency” with jurisdiction to maintain an administrative enforcement proceeding against a savings association. Therefore, the Association is subject to the authority of the OTS to initiate and maintain an administrative cease and desist proceeding against it pursuant to 12 U.S.C. § 1818(b).

### **OTS Findings of Fact.**

3. Based on a March 30, 2009 comprehensive examination of the Association, the OTS finds that the Association has engaged in unsafe or unsound banking practices, including operating with an inadequate level of capital protection for the volume, type and quality of assets held by the Association and with an excessive level of classified loans as described in the OTS Report of Examination of the Association dated March 30, 2009 (ROE).

### **Consent.**

4. The Association consents to the issuance by the OTS of the accompanying Order to Cease and Desist (Order). The Association further agrees to comply with the terms of the Order upon the Effective Date of the Order and stipulates that the Order complies with all requirements of law.

### **Finality.**

5. The Order is issued by the OTS under 12 U.S.C. § 1818(b). Upon the Effective Date, the Order shall be a final order, effective, and fully enforceable by the OTS under the provisions of 12 U.S.C. § 1818(i).



**Waivers.**

6. The Association waives the following:

- (a) the right to be served with a written notice of the OTS's charges against it as provided by 12 U.S.C. § 1818(b) and 12 C.F.R. Part 509;
- (b) the right to an administrative hearing of the OTS's charges as provided by 12 U.S.C. § 1818(b) and 12 C.F.R. Part 509;
- (c) the right to seek judicial review of the Order, including, without limitation, any such right provided by 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Order; and
- (d) any and all claims against the OTS, including its employees and agents, and any other governmental entity for the award of fees, costs, or expenses related to this OTS enforcement matter and/or the Order, whether arising under common law, federal statutes or otherwise.

**OTS Authority Not Affected.**

7. Nothing in this Stipulation or accompanying Order shall inhibit, estop, bar, or otherwise prevent the OTS from taking any other action affecting the Association if at any time the OTS deems it appropriate to do so to fulfill the responsibilities placed upon the OTS by law.

**Other Governmental Actions Not Affected.**

8. The Association acknowledges and agrees that its consent to the issuance of the Order is solely for the purpose of resolving the matters addressed herein, consistent with Paragraph 7 above, and does not otherwise release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of the Association that arise pursuant to this action or otherwise, and that may be or have been brought by any governmental entity other than the OTS.

**Miscellaneous.**

9. The laws of the United States of America shall govern the construction and validity of this Stipulation and of the Order.
10. If any provision of this Stipulation and/or the Order is ruled to be invalid, illegal, or unenforceable by the decision of any Court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby, unless the Regional Director in his or her sole discretion determines otherwise.
11. All references to the OTS in this Stipulation and the Order shall also mean any of the OTS's predecessors, successors, and assigns.
12. The section and paragraph headings in this Stipulation and the Order are for convenience only and shall not affect the interpretation of this Stipulation or the Order.
13. The terms of this Stipulation and of the Order represent the final agreement of the parties with respect to the subject matters thereof, and constitute the sole agreement of the parties with respect to such subject matters.
14. The Stipulation and Order shall remain in effect until terminated, modified, or suspended in writing by the OTS, acting through its Regional Director or other authorized representative.

**Signature of Directors/Board Resolution.**

15. Each Director signing this Stipulation attests that he or she voted in favor of a Board Resolution authorizing the consent of the Association to the issuance of the Order and the execution of the Stipulation. This Stipulation may be executed in counterparts by the directors after approval of execution of the Stipulation at a duly called board meeting.

**WHEREFORE**, the Association, by its directors, executes this Stipulation.

Accepted by:

**LIBERTY SAVINGS BANK, FSB**  
**Wilmington, Ohio**

**Office of Thrift Supervision**

\_\_\_\_\_/s/  
James R. Powell, Chairman

By:\_\_\_\_\_/s/  
Daniel T. McKee  
Regional Director, Central Region

\_\_\_\_\_/s/  
John L. Giering, Director

Date: See Effective Date on page 1

\_\_\_\_\_/s/  
William F. Kramer, Director

\_\_\_\_\_/s/  
Kent R. Powell, Director

\_\_\_\_\_/s/  
Robert E. Reed, Director

\_\_\_\_\_/s/  
Charles H. Rinehart, Director

\_\_\_\_\_/s/  
R. Jeffrey Siebenthaler, Director